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U.S. Citizenship  
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Services

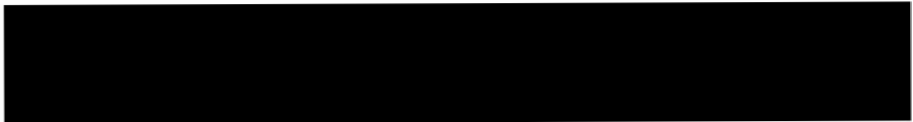
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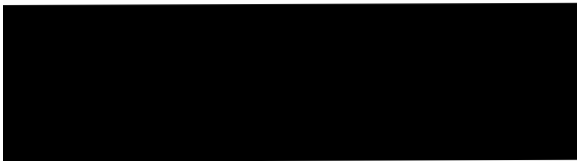
FILE: WAC 07 131 52474 Office: CALIFORNIA SERVICE CENTER Date: JAN 06 2009

IN RE: Petitioner:  
Beneficiary:



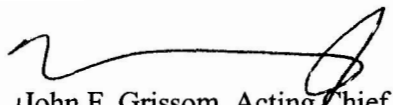
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the  
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned  
to the office that originally decided your case. Any further inquiry must be made to that office.

  
John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is engaged in the services of home health care and it seeks to employ the beneficiary as a medical records administrator. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The record of proceeding before the AAO contains (1) the Form I-129 and supporting documentation, received on April 2, 2007; (2) the director's request for additional evidence, dated June 5, 2007; (3) the petitioner's response to the director's request; (4) the director's denial letter, dated September 28, 2007; and (5) the Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The director denied the petition on September 28, 2007, concluding that the petitioner had failed to establish that the proposed position qualifies for classification as a specialty occupation.

Section 214(i)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

[A]n occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

United States Citizenship and Immigration Services (USCIS) interprets the term “degree” in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proposed position.

The petitioner is a business that is engaged in home health care services, established in 2002 and has 30 full-time employee and a gross annual income of \$1.3 million. It seeks to employ the beneficiary as a medical records administrator. In its March 14, 2007 letter of support, the petitioner explained that its staff is composed of registered nurses, physical therapists, occupational therapists, speech language pathologists, medical social workers and administrative support staff. The petitioner also provided a detailed statement of the beneficiary's proposed duties. The petitioner stated that it required an individual with a “Bachelor’s degree in Health Care Administration, Nursing or a closely related field and extensive experience in the field.”

In the director’s decision, she noted that the proposed position consists of the same duties performed by a medical record technician as described in the Department of Labor’s *Occupational Outlook Handbook* (the *Handbook*). The director noted that the petitioner did not establish that a baccalaureate or higher degree or its equivalent is normally the minimum required for entry into the proffered position.

On appeal, counsel for the petitioner asserts that the duties of the proffered position are not similar to the duties of a medical records technician but instead reflect the duties performed by the medical records administrator, and the proposed duties are specialized and complex enough to require a bachelor’s degree. Counsel states that the duties of a medical records administrator are specialized and complex because the beneficiary will be responsible for “developing and implementing of policies and procedures . . . developing evaluation criteria for medical staff. . . . preparing reports on medical services provided, utilization or resources.”

In determining whether a proposed position qualifies as a specialty occupation, USCIS looks beyond the title of the position and determines, from a review of the duties of the position and any supporting evidence, whether the position actually requires the theoretical and practical

application of a body of highly specialized knowledge, and the attainment of a baccalaureate degree in a specific specialty, as the minimum for entry into the occupation as required by the Act.

Upon review, the proposed position qualifies as a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(4), which requires a showing that the nature of the specific duties of the proposed position is so specialized and complex that the knowledge required to perform those duties is usually associated with the attainment of a baccalaureate or higher degree.

On appeal, the petitioner has adequately countered the director's characterization of the duties of the proposed position as essentially those of a medical records technician. The petitioner has submitted detailed information regarding the duties of its proposed position, as discussed above, and they exceed the occupational scope of those typically performed by medical records technician who handle the clerical functions of medical records. That description of the duties of the proposed position, in combination with this particular record's information about the petitioner's business, establishes that the duties of the proposed position are so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a bachelor's degree.

The petitioner has overcome the grounds of the director's denial of the petition, and has demonstrated that the proposed position qualifies for classification as a specialty occupation pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The AAO notes that the beneficiary has the equivalent of a Bachelor of Science degree in Nursing from an accredited institution of higher education in the United States. She therefore qualifies to perform the duties of this specialized occupation.

The petitioner has established that the proposed position qualifies for classification as a specialty occupation and that the beneficiary qualifies to perform its duties. Accordingly, the director's decision will be reversed and the petition approved.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

**ORDER:** The appeal is sustained. The petition is approved.